

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MILIMANI

SUCCESSION CAUSE NO. 2958 OF 2003

IN THE MATTER OF THE ESTATE OF GITAU ITEMO – (DECEASED)

RULING

1. The application dated 28th April 2009 is for confirmation of the grant made on 20th February 2007 to Mary Njeri Gitau and Mary Waithera Gitau. The only asset for distribution is Ngenda/Karuri/814. It's proposed that 2.15 acres should be given to Mary Waithira Gitau and 3.13 acres to Mary Njeri Gitau, survivors of the deceased.
2. Mary Njeri Gitau treated for granted of the purposes of the proceedings as a surviving spouse of the deceased, while Mary Waithira Gitau is a surviving child of the deceased. The daughter of the deceased says that Mary Njeri Gitau was never married to the deceased although they had children together.
3. I have read through the affidavit sworn on 17th January 2013 by Joseph Ndungu Githua. He is a secretary of Ngenda New Farmers Company Ltd, where the deceased had shares. He avers that after the deceased died, Mary Njeri Gitau sold to him the equivalent of one share of land measuring about one acre out of the land owned by the company which was due to the deceased.
4. The said sale is said to have occurred in 1987. This was about the time the grant was obtained in the Thika Cause. This was irregularly as the said Mary Njeri Gitau ought to have waited for confirmation of the grant to dispose of the share.
5. Taking into account paragraph 3 and 4 above, I am satisfied that the distribution proposed in the application dated 28th April 2009 is fair and I do hereby allow the said application. The grant made on 20th February 2007 is hereby confirmed. The estate shall be distributed as proposed.

DATED, SIGNED and DELIVERED at NAIROBI this 31st DAY OF January, 2014.

W. MUSYOKA

JUDGE

W. M. MUSYOKA

JUDGE